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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,432	10/24/2003	Hiroiyuki Araki	17168	2013
23389 7590 11/24/2008 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER				
LEUBECKER, JOHN P				
ART UNIT		PAPER NUMBER		
3739				
MAIL DATE		DELIVERY MODE		
11/24/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/693,432

**Applicant(s)**

ARAKI, HIROYUKI

**Examiner**

John P. Leubecker

**Art Unit**

3739

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-8 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10/17/2008.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 17, 2008 has been entered.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 4, term "the information about the use history" lacks antecedent basis.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 4-8 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Enomoto et al. (U.S. Pat. 5,830,121) in view of Noguchi et al. (U.S. Pat. 6,307,332).

Enomoto et al. disclose a system (19,20,50) controlled by a programs (col.4, lines 13-15) including a use time obtaining unit (30, col.5, lines 15-20) for obtaining the use time from a use start of an endoscope until a present time of use of the endoscope, a number of use times obtaining unit (col.9, lines 3-15) for obtaining a number of use times from the use start of the endoscope until the present time of use of the endoscope, an estimating unit (30 and col.12, lines 4-8) making an estimation of a secular change in the endoscope from its use start until a present time based the obtained use time (col.5, lines 20-37) and the obtained number of times used (col.9, lines 15-40), and a display unit (30,50, col.5, lines 41-46) for displaying whether or not the result of the estimation has exceeded an preset amount for that endoscope.

Thus, Enomoto et al. fail to disclose that the displaying unit displays a ratio of a result of the estimation to a degree of the secular change, which is preset for the endoscope.

Since the “degree of secular change” (e.g., preset suggested maintenance time) is known by a user (preset by manufacturer) and the obtained current history information is displayed to the user in Enomoto et al. (col.4, lines 7-8), a user can easily and immediately estimate the time remaining or a ratio of the time remaining in his or her head. However, since such information is a matter of computation and Enomoto et al. just happens to provide a computer (30) which includes all the required information, it would be desirable to have the computer compute any information deemed important to a user. Noguchi et al. shows that life meters for indicating the ratio of the time used with respect to the replacement/maintenance time are known in the art. Note display unit 3 in Figure 3A which indicates the use time with respect to the expected life

time of the lamp (col.12, line 57). Alternatively, the ratio of the remaining use time with respect to the expected life time of the lamp can be indicated (col.12, lines 52-58).

Since Noguchi et al. teaches that the essential function of the disclosed life meter can be applied to other fields (col.12, line 64 to col.13, line 4) and teaches that it is necessary to notify the user of the amount of time left before a preset time (col.1, lines 21-27), it would have been obvious to one of ordinary skill to have computed the ratio of the estimation to a preset maintenance time in Noguchi et al. and displayed such indication to a user. In this way, the user would be correctly notified of the time remaining before maintenance is needed to insure that the endoscope does not exceed the maintenance life time during a procedure.

As to the remaining claims, the features recited by these claims are known in the art. Enomoto et al. disclose that the display unit can display the information of multiple endoscope that are identified by serial number (col.7, line 58 to col.8, line 11). The method steps and computer program would inherently arise from the functioning of the device as described above.

### ***Response to Arguments***

6. Applicant's arguments filed October 17, 2008 have been fully considered but they are not persuasive.

Applicant's arguments are directed to the Enomoto and Noguchi references allegedly not disclosing the limitations added in the amendment to the claims filed October 17, 2008. However, as set forth in the above rejections, the cited references do indeed disclose the subject matter as claimed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Leubecker whose telephone number is (571) 272-4769. The examiner can normally be reached on Monday through Friday, 6:00 AM to 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John P. Leubecker/  
Primary Examiner  
Art Unit 3739

jpl